

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael D. Tucker,

Civil No. 09-1862 (DWF/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION
AND MEMORANDUM**

United States of America; Director of Bureau of Prisons; Warden Wendy J. Roal; Ms. Rhodes, Assistant Warden; Mr. Schappaugh, H.S.A.; Ms. Lind, RN; Mr. Votava, RN; Dr. Paul Harvey, MD-CD; Ms. Hunter, PA-C; Ms. Floyd, PA-C; Mr. Hastings, EMT; Mr. White, Medical Record; and Government Officials, Known and Unknown, in their Individual and Official capacities,

Defendants.

Michael D. Tucker, *Pro Se*, Plaintiff.

David W. Fuller, Assistant United States Attorney, United States Attorney's Office, counsel for Defendants.

This matter is before the Court upon Plaintiff's self-styled objections to Magistrate Judge Jeffrey J. Keyes's Report and Recommendation dated April 21, 2010, recommending that: (1) Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment be granted; and (2) this case be dismissed with prejudice. In addition to the initial objections by the Plaintiff, the Court has also reviewed a cover letter and

document the Plaintiff has called a “brief summary of all I have brought before the Court . . .” and also referred to the document as an “Amendment.”

The Court has conducted a *de novo* review of the record, including a review of all submissions by the Plaintiff, including his submissions of June 24, 2010, referenced above, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff’s objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Michael D. Tucker’s self-styled objections (Doc. No. [33]) to Magistrate Judge Jeffrey J. Keyes’s Report and Recommendation dated April 21, 2010, are **DENIED**.

2. Magistrate Judge Jeffrey J. Keyes’s Report and Recommendation dated April 21, 2010 (Doc. No. [30]), is **ADOPTED**.

3. Defendants’ Motion to Dismiss or, in the Alternative, for Summary Judgment (Doc. No. [8]) is **GRANTED**.

4. This case is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 30, 2010

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge

MEMORANDUM

The Court, based upon its review, makes the same findings and conclusions as recommended by Magistrate Judge Jeffrey J. Keyes. The Court must observe in passing, however, that Mr. Tucker has stated in his correspondence of June 24, 2010, that is part of the file with the Court, that the phrase “[t]o dismiss with Prejudice sounds to me like someone’s opinion of Me or my way of approaching the Courts. . .” is personal in nature. Such is not the case. The phrase “dismissed with prejudice” is a legal term simply meaning that the case is dismissed with no right of the plaintiff to refile the same case. Of course whether the plaintiff files an appeal, is his decision to make. An appeal is not affected by the phrase “with prejudice” which is the phrase used in all civil matters that are dismissed when a party does not have the right to refile the same cause of action or the same lawsuit. Nothing was personal, and nothing is intended as personal.

Based upon the Court’s review of the record and all of the submissions it has received, the Court has dismissed Plaintiff’s case, understanding that he will take strenuous issue with the Court’s dismissal. If the Plaintiff has any questions about the

decision of the Court or the contents of the Report and Recommendation, he should consult with individuals, be they attorneys or nonattorneys, that he trusts and confides in.

D.W.F.